

September 15, 1993

Ms. Sonia Faust
Deputy Attorney General
Regulatory Division
Department of the Attorney General
465 S. King Street, Room 200
Honolulu, Hawaii 96813

Attention: Heidi M. Rian
Deputy Attorney General

Dear Ms. Faust:

Re: Identity of Owner of Quarantined Animal

This is in response to your memorandum to the Office of Information Practices ("OIP") dated May 6, 1993 concerning the disclosure of the name and address of the owner of an animal quarantined at the State Animal Quarantine Station ("AQS").

ISSUE PRESENTED

Whether, under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), the name and address of owners of dogs quarantined at the AQS should be made available for public inspection and copying, upon request.

BRIEF ANSWER

In our opinion, the name of an owner of an animal quarantined at the AQS is not protected under any of the UIPA's exceptions to disclosure. However, in previous OIP advisory opinions, we found that the disclosure of individuals' home addresses would constitute a "clearly unwarranted invasion of personal privacy" under section 92F-13(1), Hawaii Revised Statutes. We see no reason to depart from our previous

OIP Op. Ltr. No. 93-12

conclusion that individuals' privacy interest in their home addresses outweighs the public interest in disclosure. However, we have also found in previous OIP advisory opinions that an individual's business address is not protected under any of the UIPA exceptions to required agency disclosure. Thus, in our opinion, although the AQS may disclose the name of the owner of the animal and the owner's business address, if any, the animal owner's home address should not be revealed because it would constitute a "clearly unwarranted invasion of personal privacy" under the UIPA.

FACTS

Recently, an emergency-hire employee at the AQS was attacked and injured by a quarantined dog. The employee requested the AQS to provide him with the name and address of the owner of the dog that attacked him. In the past, the AQS has not disclosed the names and addresses of the owners of quarantined animals because of privacy concerns. On behalf of your client, the AQS, you have requested an OIP advisory opinion concerning the disclosure of this information under the UIPA.

DISCUSSION

Under the UIPA, "[a]ll government records are open to public inspection unless access is restricted or closed by law." Haw. Rev. Stat. 92F-11(a) (Supp. 1992). In section 92F-13, Hawaii Revised Statutes, the UIPA provides five exceptions to this general rule of disclosure. As a preliminary matter, we find that sections 92F-13(2), (3), (4), and (5), Hawaii Revised Statutes, do not apply to the present factual situation. However, we will examine the UIPA's personal privacy exception, set forth in section 92F-13(1), Hawaii Revised Statutes, to determine whether the name and address of the dog owner should be protected under the UIPA.

Under the UIPA's personal privacy exception, agencies must not reveal information that would constitute a "clearly unwarranted invasion of personal privacy." Haw. Rev. Stat.

92F-13(1) (1992). Section 92F-14(a), Hawaii Revised Statutes, clarifies that "[d]isclosure of a government record shall not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interests of the individual." In previous advisory opinions, we have noted that the public interest to be considered in the UIPA's balancing test is the interest in shedding light upon agency action.

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Examples of information in which an individual has a significant privacy interest are provided in section 92F-14(b), Hawaii Revised Statutes. See OIP Op. Ltr. No. 89-16 (Dec. 27, 1989).

Based upon the conclusions reached in a previous OIP advisory opinion concerning the public's right to inspect and copy dog license records maintained by the City and County of Honolulu, we do not believe that an individual has a significant privacy interest in the fact that the individual owns an animal that is being held in the AQS. See OIP Op. Ltr. No. 90-31 (Oct. 25, 1990) (dog licenses are public under the UIPA). Thus, in our opinion, the UIPA's personal privacy exception does not protect the name of the owner of the quarantined animal.

In previous OIP advisory opinions, we have found that an agency's disclosure of an individual's home address would constitute a "clearly unwarranted invasion of personal privacy" and, thus, is protected under section 92F-13(1), Hawaii Revised Statutes. See OIP Opinion Letter No. 92-16 (Aug. 14, 1992) (licensed drivers); OIP Opinion Letter No. 92-4 (June 10, 1992) (petitioners for name change); OIP Opinion Letter No. 90-31 (Oct. 25, 1990) (applicants for dog licenses). However, we note that business addresses of individuals are not protected under any of the UIPA exceptions to disclosure. See OIP Op. Ltr. No. 90-31 (Oct. 25, 1990) (business addresses of dog owners not protected under the UIPA). Accordingly, the AQS may disclose the business address, if any, of the animal owner, but may not disclose the animal owner's home address.¹

CONCLUSION

¹Although section 92F-12(b)(3), Hawaii Revised Statutes, provides that an agency shall disclose "[g]overnment records pursuant to a showing of compelling circumstances affecting the health or safety of any individual," we do not believe that this section is applicable to the facts presented here. First, we do not believe that there has been "a showing of compelling circumstances" which necessitates the disclosure of the home address of the quarantined animal's owner. Further, although the employee's health and safety was affected at the time of the attack, the disclosure of the home address of the quarantined animal's owner will not currently affect the health or safety of the employee.

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Although the UIPA's personal privacy exception operates to protect individuals' home addresses from agency disclosure and thus, the home addresses of owners of quarantined animal should not be disclosed, we find that the name of the quarantined animal's owner is not protected by any of the UIPA exceptions to required agency disclosure. Further, the business address of the quarantined animal's owner is not protected from disclosure under the UIPA. Therefore, the AQS may disclose the name of the owner of the quarantined animal and the owner's business address, if any, to the emergency-hire employee at the AQS who was attacked by the quarantined animal.

Very truly yours,

Stella M. Lee
Staff Attorney

APPROVED:

Kathleen A. Callaghan
Director

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